

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

CHERYL KATER and SUZIE KELLY,  
individually and on behalf of all others similarly  
situated,

*Plaintiffs,*

*v.*

CHURCHILL DOWNS INCORPORATED, a  
Kentucky corporation, and BIG FISH GAMES,  
INC., a Washington corporation.

*Defendants.*

No. 15-cv-00612-RSL

**ORDER GRANTING CLASS  
REPRESENTATIVE SUZIE KELLY'S  
UNOPPOSED MOTION TO SEAL**

MANASA THIMMEGOWDA, individually and  
on behalf of all others similarly situated,

*Plaintiffs,*

*v.*

BIG FISH GAMES, INC., a Washington  
corporation; ARISTOCRAT TECHNOLOGIES  
INC., a Nevada corporation; ARISTOCRAT  
LEISURE LIMITED, an Australian corporation;  
and CHURCHILL DOWNS INCORPORATED,  
a Kentucky corporation,

*Defendants.*

No. 19-cv-00199-RSL

**ORDER GRANTING CLASS  
REPRESENTATIVE SUZIE KELLY'S  
UNOPPOSED MOTION TO SEAL**

Pursuant to Civil Local Rule 5(g), Class Representative Suzie Kelly respectfully moves for leave to file under seal an unredacted version of the Declaration of Suzie Kelly in Support of Request for Class Representative Incentive Award (the “Kelly Declaration”), which is filed in support of Class Counsel’s Motion for Award of Attorneys’ Fees and Expenses and Issuance of Incentive Awards.<sup>1</sup> Specifically, Ms. Kelly requests leave to file under seal Paragraphs 7-22 of the Kelly Declaration.<sup>2</sup>

While there exists a “strong presumption of access to judicial records,” the presumption is overcome by a showing of “good cause” to seal documents attached to non-dispositive material. *Kamakana v. City & Cty. of Honolulu*, 447 F.3d 1172, 1179-1180 (9th Cir. 2006). This “good cause” standard is notably less stringent than the “compelling reasons” threshold that must be satisfied for dispositive motions—and for good reason: records attached to non-dispositive materials routinely “[have] little public value beyond [the] presumption” of access. *Hill v. Xerox Corp.*, No. 12-cv-0717-JCC, 2014 WL 1356212, at \*1 (W.D. Wash. Apr. 7, 2014); *see also* *Hanson v. Wells Fargo Home Mortg., Inc.*, No. 13-cv-0939-JLR, 2013 WL 5674997, at \*2 (W.D. Wash. Oct. 17, 2013) (same).

Paragraphs 7-22 of the Kelly Declaration reveal substantial sensitive and personal information pertaining to Ms. Kelly’s experiences during this litigation. Kelly’s request for an incentive award is not a dispositive motion, and because of the nature of the information contained in these portions, there is good cause to permit her to file these portions under seal. *See, e.g., Wagafe v. Trump*, No. 17-cv-94 RAJ, 2019 WL 4673334, at \*2 (W.D. Wash. May 28, 2019) (good cause exists where the document includes “sensitive personal information”); *United States v. Mahoney*, No. 18-cr-0090-JCC, 2019 WL 1040402, at \*4 (W.D. Wash. Mar. 5, 2019)

<sup>1</sup> Consistent with LCR 5(g)(1), Plaintiff has conferred with Defendants in an attempt to minimize the amount of material filed under seal, and Defendants do not oppose Plaintiffs’ motion to seal.

<sup>2</sup> In accordance with LCR 5(g), Ms. Kelly has publicly filed a partially-redacted version of the Kelly Declaration and has attached the unredacted Kelly Declaration hereto.

(same); *Miller v. Boys & Girls Clubs of Snohomish Cty.*, No. 15-cv-2027-JCC, 2017 WL 897811, at \*10 (W.D. Wash. Mar. 7, 2017) (same). If these portions were made public, Ms. Kelly would suffer substantial fear, anxiety, and embarrassment. Filing a limited portion of Ms. Kelly's declaration under seal is the least restrictive way to avoid this harm.

For the foregoing reasons, Class Representative Kelly requests leave to file under seal an unredacted version of the attached Declaration of Suzie Kelly. Pursuant to LCR 5(g)(6), should the Court deny this motion, Ms. Kelly requests that the Court please allow her to withdraw the Kelly Declaration, rather than unseal it.

Respectfully submitted,

December 14, 2020

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10 IT IS SO ORDERED.

11 Dated this 5th day of January, 2021.

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13 ROBERT S. LASNIK  
14 UNITED STATES DISTRICT JUDGE  
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